United Nations A/70/332

General Assembly

Distr.: General
19 August 2015

Original: English

Seventieth session
Item 73 (c) of the provisional agenda*
Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in Myanmar

Report of the Secretary-General**

Summary

The present report, submitted pursuant to paragraph 13 of General Assembly resolution 69/248, covers the period from 7 August 2014 to 6 August 2015. It examines the human rights situation in Myanmar in the context of the ongoing democratization process in the country and highlights the efforts of the United Nations in supporting the Government and people of Myanmar in their path towards further reform and development.

During the reporting period, the Government of President Thein Sein continued to promote political and economic reform while facing the numerous challenges of transitioning after half a century of military rule. Economic growth remained brisk, with increased foreign investment and poverty reduction policies in place even as the country sought transition from least developed country status. The democratic institutions in the country continued to mature, despite fresh dilemmas and challenges. Parliament performed robustly, although its efforts to amend some of the more undemocratic features of the 2008 Constitution failed to advance appreciably. The Government continued its efforts for national reconciliation by actively pursuing peace talks with 16 ethnic armed groups. Those efforts culminated in a provisional agreement on a draft text for a nationwide ceasefire by the end of March 2015. While the draft has not so far received the final approval of all negotiating partners, it represents an important step in framing a political dialogue between the Government

* A/70/150.

** The report was submitted late in order to reflect current information about conditions on the ground.

15-14084 (E) 010915

Please recycle

and the erstwhile warring ethnic groups, as well as the acceptance in principle of a federal system of governance. Although the Government has publicly committed itself to holding transparent, inclusive and fair elections, scheduled for 8 November, two rounds of consultations convened between various political parties as well as six-party talks between the country's top leaders have not yet paved the way for any broad political understanding on a credible transition to a civilian constitutional and democratic future. Major improvements in the organization and conduct of elections were announced by the Union Election Commission but some serious challenges remain. In particular, rising Buddhist chauvinism and strident anti-Muslim sentiments have continued to threaten the fragile communal stability, particularly in Rakhine State, and the disenfranchisement of the Rohingya Muslim population and some other minority communities, following the revocation of their temporary identity cards, remains deeply problematic. The risk of fresh outbreaks of communal violence, particularly in the context of the upcoming elections remains high. Despite the overall opening up of space for free expression and peaceful assembly and association in Myanmar, serious abuses against the media and civil society activists continue to be reported. In Rakhine, the Muslim community continues to experience discrimination and deprivation of their human rights. The crisis gripping migrants stranded on vessels in the Andaman Sea and the Bay of Bengal — many of them Rohingya — have attracted wide international attention and turned the spotlight onto the human rights situation in Rakhine, adding fresh pressure on the Government. In response, the authorities have agreed to consideration of the issue within a regional framework and to undertaking "search and rescue" measures for stranded vessels, providing temporary refuge for victims, including facilitation of their return, and improvement of the conditions of those internally displaced. On the broader issue of citizenship for the Rohingya, the Government has yet to display the requisite political will to resolve the matter.

I continue to remain closely engaged, both personally and through my Special Adviser, with the Government and people of Myanmar. The United Nations system has also provided technical, financial and programmatic assistance throughout the year to assist Myanmar address important challenges in the fulfilment of the country's political, developmental, humanitarian and human rights goals. In the critical period leading up to the general elections, the United Nations remains committed to supporting Myanmar in its strenuous effort to build a democratic, peaceful and prosperous State for all its people.

I. Introduction

1. The present report is submitted pursuant to paragraph 13 of General Assembly resolution 69/248, in which the Assembly called on the Secretary-General to continue to provide his good offices and pursue his discussions on human rights, democracy and reconciliation in Myanmar, and report to the Assembly at its seventieth session and to the Human Rights Council on the progress made in the implementation of the resolution.

2. The report covers the period from 7 August 2014 to 6 August 2015 and is based on information and assessments provided primarily through missions, monitoring and other activities and interactions undertaken by my Special Adviser on Myanmar. It also contains data and analysis provided by various United Nations entities active in Myanmar. The human rights situation in Myanmar has also been reviewed in the recent reports of the Special Rapporteur on the situation of human rights in Myanmar, which were issued in September 2014 (A/69/398) and March 2015 (A/HRC/28/72).

3. In the exercise of the good offices support of the United Nations to the Government of Myanmar, my Special Adviser visited Myanmar on seven occasions during the reporting period and held meetings with government representatives, civil society and other stakeholders. I also visited the country during the twenty-fifth summit of the Association of Southeast Asian Nations (ASEAN), which was held under the chairmanship of the Government of Myanmar in Nay Pyi Taw in November 2014. As part of the event, I co-chaired with President Thein Sein the sixth ASEAN-United Nations summit. While in Myanmar, I also had meetings with President Thein Sein, Vice-President Sai Mauk Kham, the Speaker of the Lower House of Parliament, Thura Shwe Mann, and with Aung San Suu Kyi, Chair of the Union Parliament Committee for the Rule of Law and Tranquility and Chair of the National League for Democracy.

4. Through the reporting period, my Special Adviser remained closely engaged with Member States to further constructive engagement by the international community in addressing the challenges Myanmar faces. In addition to bilateral and group-level consultations in New York and Myanmar, he travelled to Beijing in March 2015 to discuss the ongoing peace talks between the Government of Myanmar and the ethnic armed groups with the Special Envoy of the Government of China, Ambassador Wang Yingfan. He also visited Brussels in July and held consultations with the European Union. He briefed the Security Council on 2 April 2015 on the situation in Myanmar. The High Commissioner for Human Rights also briefed the Security Council on 28 May on the situation in Myanmar in the context of the ongoing migrant crisis in the Andaman Sea and the Bay of Bengal. In addition, I convened the second and third meetings of the Partnership Group on Myanmar on 26 September 2014 and 24 April 2015 respectively. Both meetings were attended by senior-level delegations from Myanmar led by Union Minister Soe Thane. During the meeting on 24 April 2015, Myanmar dispatched its largest and most senior delegation to date, which included the Minister for Immigration and Population Affairs, the Attorney General and the Chief Minister of Rakhine.

II. Context and developments

A. Political reform and democratization

5. Four and a half years have passed since the current reformist Government of Myanmar took office. Since then, the Government has embarked on an ambitious path of political and economic reforms and demonstrated its strong commitment to promoting democratic institutions and values in Myanmar. As a result, widespread and unprecedented political and economic reforms have swept the country. Over 1,000 political prisoners have been released since January 2012 and the space for freedom of expression and assembly has been greatly expanded. Over the last few years, newspapers, magazines and broadcast outlets have grown in number and become increasingly open, occasionally even strident, in the public expression of their views and criticisms. The country has continued to open its doors to visits by outsiders and has been active with the regional and international communities. However, with the political atmosphere becoming charged as the general elections approach, the Government has been the object of strong attacks in domestic quarters and internationally for punitive and strong-arm actions against protesters, journalists and media figures. Student protests in February against the National Education Law attracted the attention and concern of both the authorities and opposition parties. Such protests have had significant ramifications during the period of military rule. Together those actions were seen as evidence of "backtracking" on reform by the Government. Civil society organizations, activists and opposition parties have strongly questioned the commitment of the Government to building a democratic society and its intentions on early transition to civilian rule.

6. Meanwhile, the positive trajectory of reform appears to have continued with the release of some prominent political prisoners, such as Tun Aung, early in the year. Nonetheless, civil society groups estimated that more than 100 such prisoners remained in detention by the end of May. On 30 July, in a presidential amnesty, 6,966 prisoners were released from custody, including 210 foreign nationals. While it is not yet clear how many of them were political prisoners, according to a statement put out by the Ministry of Information the amnesty was granted "for the sake of stability and durable peace of the State, national reconciliation, on humanitarian grounds and to enable them to take part in the political process." For its part, Parliament remained active, holding two sessions (September-November 2014 and January-August 2015) and approving 56 laws, including 23 new laws, aimed at reviving the economy and reforming the governance structure. They included an amended Law on Peaceful Assembly, a National Education Law, new laws on disability rights and the protection of ethnic rights and several laws covering financial sector reform. Members continued to oversee and challenge the executive branch, at times rejecting or revising legislative proposals from the President, questioning ministers about executive actions and reviewing complaints from the public on land grabs, corruption and other issues.

7. Nevertheless, not all decisions taken by Parliament were uniformly well received and constructive. When the radical Buddhist Organization for the Protection of Race and Religion (MaBaTha) organized mass rallies against proselytizing through "improper influence and persuasion" and proposed a law that would require anyone who wanted to change their religion to first seek permission from the local authorities, the move received considerable support within Parliament

and among large sections of the majority community. Backed by a petition with 1.3 million signatures, this powerful group then prevailed on the Government to draft four bills restricting interfaith marriage, birth rates among certain communities and against polygamy. Although phrased broadly, those bills were widely seen as directed against the religious minorities in the country, especially its 2.2 million Muslims. Despite widespread international criticism, the package of the four "race and religion protection" bills was submitted to Parliament in November 2014. The bills rapidly made their way through the legislative process and the first one, known as "the population control health-care bill", was signed into law by the President in May. While the law was drafted as largely voluntary with no punitive measures, there are significant concerns that it is likely to be used to curb women's reproductive rights, particularly among religious and ethnic minority communities. The law allows local governments to impose birth-spacing provisions in regions where they deem population growth to be excessively high. The second bill, known as "the Buddhist women's special marriage law", was passed by Parliament on 7 July and submitted for presidential approval. The bill targets Buddhist women who marry non-Buddhist men and introduces vaguely defined acts against Buddhism as grounds for divorce, forfeiture of custody and matrimonial property and potential criminal penalties. The other two bills are aimed at restricting religious conversion and outlawing polygamy. Apart from curtailing the rights of religious minorities, those bills risk further emboldening ultranationalist elements within the country.

8. I have spoken to President Thein Sein on more than one occasion in recent months to express my grave concern about those controversial bills and urged his Government to reconsider pressing forward with them. I also strongly underscored my concerns with the senior Myanmar delegation that attended the Partnership Group meeting in April this year and with the Speaker of the lower house of Parliament, Thura Shwe Mann, who visited New York in May.

9. In addition to those egregious legislative initiatives, extant but outdated laws, such as the Official Secrets Act, the Unlawful Associations Act, and the Electronic Transactions Act, continue to be used to arrest, charge and discredit journalists and political activists. The amended Law on Peaceful Assembly continues to provide local authorities with broadly defined and arbitrary powers to deny applications for public protests and to arrest and detain persons involved in peaceful protests. Under the law, persons involved in unauthorized peaceful protests can face criminal prosecution and be sentenced to stringent prison terms. The United Nations has provided comprehensive technical comments to the relevant government entities on those and other laws and advocated for them to be brought into line with international norms and standards.

10. Critical to the reform of the political system is the reform of the 2008 Constitution, which has been the subject of considerable public debate. Notwithstanding that debate, the prospects for constitutional change prior to the elections remain dim. While both the President and the Speaker of the Parliament have publicly supported the need for constitutional reform, no specific time frame for bringing about a change has been determined. In Parliament, the Speaker entrusted a committee with the review of the Constitution and, during its last session of 2014 in November, called upon it to submit a report to the full Pyidaungsu Hluttaw or Union Parliament. During that session, the Speaker also instructed the committee to prepare a bill on constitutional amendments for its first

session in May and June 2015, with a view to preparing for a referendum on the Constitution, if necessary. However, the omnibus bill eventually presented to Parliament on 10 June tamped down the earlier demands of the National League for Democracy and did not include any proposal for lifting the critical limitation in article 59 (f) of the Constitution banning individuals whose spouses or children are foreign nationals from qualifying for the post of president. It sought instead to remove the condition in article 59 (f) disqualifying presidential candidates on the basis of the foreign spouses of their children. In the bill, reducing the majority requirement for constitutional amendments from 75 per cent (as stipulated in article 436 of the Constitution) to 70 per cent was proposed, thus seeking removal of the military veto on any constitutional change. Even those attenuated proposals failed to pass muster and were rejected en bloc by the army representatives in Parliament. In the end, the sole proposed amendment that was cleared was a relatively inconsequential stipulation under article 59 (d) of the Constitution, requiring holders of public office to have adequate knowledge of military matters. In that case, the word "defence" was substituted for "military" and adopted by an 88 per cent vote.

11. Given the inevitable stranglehold that the block voting by the military representatives predictably had on any change to the 2008 Constitution, it was natural that senior figures kept insisting on the need for a priori political understanding among the country's top political leaders, in order to bring about any modicum of political or constitutional change. In parallel with the efforts in Parliament, President Thein Sein also convened high-level political meetings with military leaders, the Speakers of the two houses of Parliament and representatives of prominent political parties. One such meeting was convened in Nay Pyi Taw on 31 October 2014 and was attended, inter alia, by Aung San Suu Kyi. At that meeting, the President urged all political leaders to continue to strengthen the democratic transition, to move forward with the peace process and to hold successful elections. He emphasized the need for all stakeholders to refrain from resorting to confrontational approaches and to strive for change for a better future through realistic political means. In April 2015, the President also convened six-party talks in Nay Pyi Taw with the country's major political leaders including Aung San Suu Kyi; Speaker Thura Shwe Man of the Lower House of Parliament; Speaker Khin Aung Myint of the Upper House; Commander-in-Chief of the Defence Forces, Min Aung Hlaing; and ethnic representative Aye Maung. While official sources described the meeting as useful, no agreements on specific political or constitutional changes were reached at the meeting and the whole exercise was described by Aung San Suu Kyi as fruitless. While all sides spoke of a further meeting to consider specific issues, that has so far not happened.

12. Notwithstanding the uncertainties generated by those developments, it is clear that the general elections scheduled to take place on 8 November will be an important milestone in the democratization process. If conducted in a credible, transparent and inclusive manner, they present an opportunity to demonstrate once again the commitment of the Government to democratic reform. Both the President and other senior political leaders have reiterated their commitment to holding free and fair elections and called for a peaceful and calm electoral atmosphere. In his New Year's Day speech, President Thein Sein praised the "new political culture" in Myanmar, reiterating his pledge that the "2015 elections will mark the first time since our independence when elections will be contested by all the political

stakeholders freely and fairly". In his monthly radio address on 3 June, the President stressed that the Government "will fully cooperate with the Union Election Commission and other relevant organizations," urging "all political forces and every single citizen to make it their goal to ensure stability during this transitional period before the general elections." On 27 March, the Commander-in-Chief of the Defence Forces, Min Aung Hlaing, pledged the support of the military for credible democratic elections and warned that it would not tolerate instability or armed threats to the polls. The Chair of the Election Commission, Tin Aye, has also stressed the commitment of the Commission to conducting the elections in a transparent and inclusive manner. For its part, the opposition National League for Democracy recently ended months of speculation and uncertainty and announced its intention to contest the election, which could be seen as an indication of its increased expectation of a credible process. Prominent activists, including 88 Generation leader Ko Ko Gyi, announced in July that they would run in the elections for the National League for Democracy, ending speculation that they would form their own political party.[1]

13. The Election Commission has undertaken preparatory work for the general election to improve the transparency and integrity of the electoral process. The measures include efforts to digitize and update the electoral roll; consultation with civil society and international electoral support organizations on the regulatory framework; invitations to international and national electoral observers for the first time; engaging with the media in their reporting on the elections; making changes to address electoral provisions that were problematic in 2010, such as advance voting; and reducing the costs of a candidacy. At the request of the Commission, an electoral needs assessment was conducted by the Department of Political Affairs and a modest electoral assistance project commenced in Myanmar in June 2015. The European Union, Japan, Switzerland, Norway, the United Kingdom of Great Britain and Northern Ireland and the United States of America have also pledged technical and other assistance for the elections. On 26 June, 67 of the 80 currently registered political parties signed the new code of conduct for the 2015 elections. The signing took place in the presence of the Union Electoral Commission, members of the diplomatic community and the media. An additional 12 parties have since signed up. The code was drafted by the parties themselves as a shared statement of acceptable campaign behaviour and has been endorsed by the Commission. As the country prepares for the elections, the broader political atmosphere has remained relatively calm. Increased freedom of expression and the press has allowed far more open debate and reporting on issues than was possible earlier and political parties have been operating with relative freedom.

14. At the same time, capacity constraints may hamper the Commission's conduct of the process. Understanding of elections among much of the electorate remains poor and extensive efforts will be needed to enhance such ground-level understanding. In addition, fighting in some of the ethnic areas may prevent polling, thus disenfranchising some ethnic minorities. There is a growing danger of communal tensions being exploited for political agendas in the run-up to the elections. In Rakhine and elsewhere, several hundred thousand Rohingya Muslims have been disenfranchised following a decision to cancel their temporary white

[1] At the time of writing, the application of several 88 Generation members, including Ko Ko Gyi, for nomination as National League for Democracy candidates had been rebuffed by the central committee of the party.

cards. Indian and Chinese minorities holding white cards have been similarly affected. During the 2010 elections, white card holders enjoyed the right to form political parties, participate in party activities and vote. In 2014, an amendment to the Political Parties Registration Act removed the right of white card holders to form political parties or be members. In February, despite a decision by Parliament granting white card holders the right to vote in a referendum, the President revoked the validity of the white cards. That decision was widely seen as having been taken following a decision of the Constitutional Tribunal questioning the action of Parliament and under pressure from ultranationalist Buddhist elements in the country. As preliminary voter lists appear around Rakhine, the names of Rohingya remain conspicuously absent and the community is being denied any political rights. The case of the long-serving Rohingya parliamentarian, Shwe Maung, who has reportedly been deemed ineligible to run for re-election by the Electoral Commission, is particularly egregious.

15. Ultimately, the credibility of the elections will depend on whether or not its outcome finds broad acceptance among the political leaders and the populace and whether a smooth transfer of power actually takes place. The time between the announcement of election results in November and the election of the President by an electoral college is likely to be a period of considerable uncertainty. It is important that all political leaders act responsibly and prudently, put the interests of the country before their personal agendas and help to maintain a calm and stable atmosphere. Any future Government will be expected to continue on the path of reform, including taking action on constitutional change to bring about further democratization and engaging the erstwhile ethnic armed groups and others in a credible political dialogue.

B. Armed conflict and the process of national reconciliation

16. Finding a political solution to ending more than 60 years of armed conflict between the army and the ethnic groups has been a priority for the Government of President Thein Sein. Having signed bilateral ceasefires with most ethnic armed groups, the Government has been embarked on an ambitious path of reaching a nationwide ceasefire agreement since 2011. Unlike previous attempts at a ceasefire agreement by the military Government, the current efforts at a nationwide ceasefire were to be part of a broader national reconciliation that would include the drawing up of a framework for political dialogue and engagement with the broad range of ethnic armed organizations and other political forces in the country. The President has also made a commitment that the process will lead to the emergence of a genuine federal system of governance, a key demand and aspiration of the ethnic groups. According to the peace road map of the Government, the parties on both sides will draft a framework for political dialogue within 60 days of the ceasefire agreement being signed, with the actual dialogue process expected to commence within another 30 days of the agreement on the framework.

17. Progress on the peace negotiations between the Union Peace Working Committee on the government side and the Nationwide Ceasefire Coordination Team, representing 16 ethnic armed groups, continued at a varied and disparate pace during the reporting period. Three rounds of formal negotiations and numerous informal and technical negotiations were conducted on a single draft text of the measures for a ceasefire, including references to a code of conduct for armed

personnel, ceasefire monitoring mechanisms and so-called security sector reintegration modalities — the latter covered only in very general terms. In parallel, a peace donor support group, led initially by Norway and now by Switzerland and comprising Australia, Japan, the United Kingdom, the United States, the European Union, the United Nations and the World Bank, has been supporting the Government and the ethnic armed groups and technical bodies connected with the peace process. During the course of the negotiations between August 2014 and March 2015, my Special Adviser was present as an observer, together with China, and witnessed at first hand the determination and resolve of both negotiating sides to reach a common understanding and political solutions based on a modicum of mutual confidence and trust that had been absent for more than 60 years of conflict on the battlefield. The fact that the different ethnic armed organizations, with their distinct and sometimes divergent interests and aspirations, could come together to form a single composite negotiating team as the Nationwide Ceasefire Coordination Team and work constructively on a common text with the Union Peace Working Committee was in itself a significant achievement.

18. Despite the considerable headway and early positive signs, however, the peace talks were seriously interrupted over the seven months between late September 2014 and March 2015 owing to significant clashes involving armed groups such as the Kachin Independence Army, Ta'ang National Liberation Army and Arakan Army in Kachin and Shan States, and latterly involving the Myanmar National Democratic Alliance Army, which badly dented the much needed build-up of trust between the two sides. Each side accused the other of backtracking and of resistance from hardline elements. The attempts by some ethnic armed groups to publicize action by a so-called "federal union army" were seen by the Government as provocative. Meanwhile, the army strike against the Kachin military training school near Laiza in November 2014, in which 23 cadets from various ethnic armed groups were killed, sharply increased the tensions between the Government and the ethnic armed groups.

19. In the Kokang Self-Administered Zone of northern Shan State bordering China, an outbreak of fighting from February between the army and the Myanmar National Democratic Alliance Army and other groups caused some of the severest losses suffered by the army in recent years. In a radio address on 1 March, the President stressed that he would "not tolerate any country or group infringing the sovereignty of Myanmar." Declaring martial law in the area and a gag order against media outlets covering the conflict there, the army responded using heavy artillery and air power against its opponents. Those sharp retaliatory attacks by the army in mid-March spilled over the border with China, resulting in the deaths of five Chinese civilians and attracting a sombre warning from China. However, both sides moved quickly to defuse the situation with a formal apology from Myanmar.

20. Meanwhile, the Government also reached out to the armed groups, making some critical overtures to break the deadlock. The presence of the President at the signing on 12 February of the deed of commitment and formal declaration of the intent of the Government to pursue political dialogue for a "federal union based on democracy, equality and self-determination" reaffirmed the commitment to national reconciliation. Key ethnic organizations, however, remained absent from that ceremony. Partly at the urging of China and others, a Kachin Independence Organization delegation led by La Ja visited Nay Pyi Taw for the first time in mid-March 2015. They were well received in the capital by both President Thein

Sein and the Commander-in-Chief of the Defence Forces, Min Aung Hlaing, and at the subsequently held seventh round of talks which began on 17 March, the 18 month-long negotiation over the agreement on a nationwide ceasefire culminated in the signing of a draft agreement on 31 March. At the signing of the draft agreement, President Then Sein expressed the readiness of the Government to move forward on key promises contained in the draft, the most important of which was a guarantee of political negotiations and the commitment on the establishment of a democratic federal State — two long-standing and critical demands by the ethnic groups. Some significant points of contention, including on details of joint monitoring, security sector reintegration and a code of conduct, remained unresolved and await a future political dialogue.

21. In the following months, the President continued to reiterate the readiness of the Government to sign the ceasefire agreement at an early date. However, on the side of the ethnic armed groups, the Nationwide Ceasefire Coordination Team suggested that the signed draft would be subject to approval by a leadership summit of the ethnic armed organizations, to be convened urgently. That summit was held from 2 to 9 June in Law Khee Lar in Karen State. My Special Adviser attended the summit as an observer, along with a delegation from China. Rather than ratifying the text agreed by the Nationwide Ceasefire Coordination Team at the summit level, the meeting resumed the debate and discussion on the same text, proposing 12 further amendments to the already signed draft nationwide ceasefire agreement. It also set up a new senior delegation negotiation team to replace the Nationwide Ceasefire Coordination Team in further negotiations. Among other issues raised afresh was the plea that all 16 armed groups be included in signing the ceasefire, seeking to overrule the reservations of the Government about the inclusion of the Myanmar National Democratic Alliance Army, Ta'ang National Liberation Army and Arakan Army as signatories of the agreement at that stage. Although the stance taken at the Law Khee Lar summit was viewed in some quarters as a step backwards in the negotiations, government peace negotiators under the leadership of Minister Aung Min decided to re-engage with the Nationwide Ceasefire Coordination Team and the senior delegation negotiation team at Chiang Mai in Thailand in early July. Meanwhile, ostensibly at the behest of China, the Myanmar National Democratic Alliance Army declared a unilateral ceasefire in its conflict with the army in early June, a move the army refused to take seriously. As contacts between the two negotiating sides progressed, both sides publicly showed signs of willingness to take forward the text that had already been worked on. A further round of negotiations took place in Yangon in mid-July, where the gap was narrowed, but key issues remained pending, including differences over the signatories and the international witnesses to be invited. The parties met again on 6 and 7 August without reaching final agreement on the signatories from among the ethnic armed groups. Nevertheless, last-ditch contacts are taking place. If agreement is reached on this point, senior leaders from the armed groups will be invited to meet the President and Commander-in-Chief to confirm it and to sign a nationwide ceasefire agreement. That will be the last opportunity under the present Government.

22. I have repeatedly emphasized to both sides the need for all concerned to take a "leap of faith" in order to surmount the accumulated suspicions and mistrust and to embark on a new period of cooperation. Only in that way can the path be opened for a stable ceasefire and a meaningful and constructive political dialogue. It remains to be seen whether the sides will make tangible progress on those issues before the

elections. The last 18 months have shown that all sides have the capacity and will to find a way out of conflict. Periodic stalemates have been overcome and both sides have persevered in negotiation and built a foundation of understanding and appreciation for the constraints on the other side. Their technical teams have often worked closely in tandem to clarify misunderstandings and misperceptions. Regardless of the outcome of the negotiations, the experience of the parleys will be extremely useful for the future. It must also be recognized that President Thein Sein and his negotiating team on the government side and the leading members of the Nationwide Ceasefire Coordination Team on the side of the ethnic armed groups, deserve much credit for having engendered and promoted a culture of dialogue and patient negotiation — a significant achievement that no previous Government in Myanmar has accomplished.

C. Socioeconomic development

23. The general economic outlook in Myanmar remained positive during the reporting period. According to the preliminary findings of the International Monetary Fund, the outlook for growth remains favourable over the medium term but there are signs of risk for the near term. The Fund expects the real rate of growth in gross domestic product to decline slightly to 7.8 per cent in fiscal year 2014-15 from 8.3 per cent in 2013-14. Foreign investments grew sharply during fiscal year 2014-15 to $8 billion according to the Myanmar Investment Corporation, a more than 200 per cent increase compared to the year before. While the energy sector was the leading recipient of that investment, with 35 per cent of the total, both the telecommunications and manufacturing sectors also received 25 per cent. Steady investment in manufacturing, real estate, hotels and tourism has been part of the general trend. There has been a notable change in the banking sector: in October 2014, for the first time in half a century, the Central Bank of Myanmar announced that nine foreign banks had been awarded licences to operate in the country. During my visit to Nay Pyi Taw in November 2014, I was encouraged by my meeting with business leaders, who were members of the United Nations Global Compact group in Myanmar and were committed to operating in ways that met fundamental responsibilities in the areas of human rights, labour and the environment and in combating corruption.

24. Growth in foreign investment has been accompanied by some limited efforts on the part of the Government to strengthen the legal and regulatory environment and mitigate social and environmental risks. The 15-year power development plan, unveiled in November 2014, added to existing concerns about the lack of transparency and adverse environmental and social impacts around large-scale hydropower projects on the Salween River and other major projects. The Government has made some effort to address those issues. In October 2014, it established the National Land Resources Management Central Committee in an attempt to open up the national land use policy formulation process to the public and extended the consultation period. It also worked with the International Finance Corporation to carry out a strategic environmental assessment in the hydropower sector. It also made modest efforts to advance inclusiveness and transparency, inviting local civil society to the third Myanmar Development Cooperation Forum in February 2015. In terms of revenue transparency, Myanmar is currently developing its first extractive industries transparency initiative report, covering

revenue reporting in the oil, gas and mining sectors. While those efforts are encouraging, they should be accompanied by implementation of the anti-corruption law, increased transparency around investment decision-making, inclusive economic development policies and effective grievance mechanisms.

25. President Thein Sein has continued his efforts to reduce poverty and graduate Myanmar from the list of least developed countries. In December 2014, the Government and a United Nations-wide mission, led by the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, conducted a least developed country graduation workshop and reviewed the current status of Myanmar against the relevant criteria. Subsequently in January, the United Nations increased its provision of technical support and urged the Government to carry out policy discussions with civil society and the private sector to identify effective strategies and actions needed to achieve concrete progress on the ground.

26. In April 2014, with support from the United Nations Population Fund and donors, the Government conducted a nationwide population and housing census for the first time in three decades. The conduct of such a census was essential, timely and invaluable in light of the ongoing political and economic transformation of Myanmar. From May 2014, international and national conflict advisers visited regions across the country to consult with ethnic, religious, political, women and youth groups to help dispel misconceptions about the process and provide opportunities for engagement and trust-building in the census. Reliable demographic and social data on the population will provide a firm statistical basis for policymaking and donor interventions in the years ahead. The main result of the census was released on 29 May 2015, including detailed data on population size and growth, age and sex, marital status, migration, births and deaths, education, employment, disability and housing conditions in each state and region, district and township. Additional data on occupation, industry, ethnicity and religion are scheduled to be released in 2016. Nearly 98 per cent of the population was counted and remote ethnic areas never previously counted in a census were included, thanks to dedicated negotiations between the Government and ethnic leaders. However, an estimated 1.2 million people from Kachin, Rakhine — the majority of whom were Rohingya — and Kayin States were not fully enumerated, reflecting the continuing challenges posed by internal conflict and ethnic divides. The refusal of the Government to allow self-identification of the Rohingya in the census and their consequent non-participation, detracted from the efficacy of the exercise in Rakhine. The populations for those areas had to be estimated by other means.

D. Human rights situation

27. Despite many positive developments, the reporting period witnessed some serious violations of human rights. Activists, journalists and ordinary citizens faced arbitrary arrest and detention when exercising their rights to peaceful assembly and association and freedom of expression. On 10 March 2015, 127 peaceful protestors calling for amendments to the national education law were arrested at Letpadan and charged with rioting, causing injury to a public servant, unlawful assembly and disturbing national stability, charges which carry prison sentences of up to 10 years. At least 54 of them still remain in pretrial detention and many have been denied bail.

28. The Government signed the International Covenant on Economic, Social and Cultural Rights in July 2015. On the ground, continued reports of land-grabbing remain of concern. As protests over land rights and extractive resources have intensified, farmers and community-level organizers involved in protests have faced heavy-handed treatment from the authorities. On 18 February, 14 villagers from the Yangon suburb of Michaungkan, who were demanding the return of their land, allegedly confiscated by the previous military Government, were arrested and sentenced to six months in prison. Earlier in December 2014, six activists were arbitrarily arrested in Yangon after peacefully protesting against the fatal shooting of a protestor at Letpadaung copper mine in Sagaing weeks before. On 15 May 2015, they were sentenced to four years and four months in prison. Meanwhile, allegations of the excessive use of force by the police and security forces in dispersing protests were made in wide-ranging cases. On 22 December 2014, police reportedly opened fire on villagers, farmers and monks protesting alleged land confiscation and damage to the environment at the Letpadaung copper mine. One person was killed and others were injured. In a further instance on 10 March 2015, the police were accused of using excessive force to disperse a protest against the national education law.

29. While the media continued to operate in a freer environment, several local journalists were arrested and imprisoned during the year on charges of defamation, harassment, trespass or violation of national security laws. There are currently at least 10 journalists imprisoned in Myanmar on defamation charges. The case of freelance reporter Aung Kyaw Naing (also known as Ko Par Gyi), allegedly tortured and killed in military custody in Mon State in early October 2014, was particularly disconcerting, as it represented the first journalist killed on duty since 2007. An official inquiry into the death was reportedly closed in June without apparent resolution of the case. Meanwhile, concerns remain over the lack of accountability and impunity for past and ongoing human rights violations allegedly committed by the military and non-State actors, both in conflict-affected and ceasefire areas. The criminal investigation into the brutal rape and killing of female Kachin teachers, Maran Lu Ra and Tangbau Hkawn Nan Tsin, has lacked credibility and the perpetrators remain at large. A further disturbing recent trend has been the alleged threats of criminal law suits made by the military against civilian complainants of such violations.

30. Institutionalized discrimination against the minority Muslim community, especially the Rohingya — officially referred to by the Government as Bengali — has continued to be the subject of focused international attention. It attracted particular attention in the context of the irregular migration crisis in the Andaman Sea and the Bay of Bengal during May and June 2015. An estimated 1.2 million Rohingya in Rakhine continue to face various forms of restrictions on movement, employment, education and religious freedom. The question of legal status, including access to citizenship for a majority of the community remains unresolved. In the latter half of 2014, the Government launched a pilot citizenship verification exercise in Myebon Township, offering the possibility of citizenship for Kaman[2] and Rohingya internally displaced persons. By mid-2015, approximately 600 persons had received citizenship decisions, although their movements continue to be restricted. The process remains stalled amid resistance from the applicants to

[2] The Kaman are a Muslim community formally recognized as one of the 135 national races and entitled to full citizenship.

identify as Bengali. As highlighted above, in February 2015, the Government revoked white cards and instructed all white card holders — reportedly a total of 760,000 people — to surrender their cards by 31 May. More than 400,000 cards were surrendered in Rakhine, a majority from Rohingya. In return they were given receipts, which they were to exchange for a new card. According to the Ministry of Immigration and Population, the new card is an identification card valid for two years and not evidence of citizenship. Its holders will need to apply separately for citizenship. Communities are reportedly reluctant to take the new card, because it is not clear what will happen after the two-year period of validity expires. It is also unclear whether Rohingya who did not surrender their white cards can apply for citizenship and how stringent the requirement for the Rohingya community to identify as Bengali will remain. As of 1 June 2015, the verification of citizenship process resumed in Rakhine, with the requirement to identify as Bengali intact. To date, only 800 household applications seem to have been made across three townships in Rakhine.

31. My Special Adviser and I have continued to urge the Government to take measures to end such systematic discrimination against the Muslim communities and to alleviate their suffering. In its resolution 29/21, adopted on 3 July 2015 at its twenty-ninth session, the Human Rights Council also called on the Government of Myanmar to take the necessary measures to address discrimination and other human rights abuses against the Rohingya Muslims and other minorities and grant them full citizenship.

32. The Tatmadaw (armed forces) and seven ethnic armed groups continue to be listed for the recruitment and use of children in the annexes to my reports on children and armed conflict. During the reporting period, the Government made progress in the implementation of a joint action plan, concluded with the United Nations in 2012, to end and prevent the recruitment and use of children. That included the discharge of former child soldiers from the Tatmadaw, joint verification of suspected minors with the United Nations to expedite release of those who were recruited under the age of 18, increased monitoring access to military battalions, training schools and recruitment centres, including for border guard forces, and awareness-raising and training efforts to sensitize troops. Ten monitoring visits in 44 military units were conducted by the United Nations during the reporting period. In April, the United Nations Children's Fund (UNICEF) organized a two-day workshop with the army and key ministries, including the Ministries of Defence, Home Affairs and Immigration and Population, which led to the development of standard operating procedures on age verification. At least 371 former child soldiers were released from the Tatmadaw during the reporting period, although 39 new cases of recruitment of child soldiers were also reported during 2014. In collaboration with the Government, the United Nations and its partners provided reintegration assistance to children who had been released. The United Nations also continued its engagement with the Government and other parties to the conflict to monitor and report on the recruitment and use of children as soldiers and other grave violations against children. My Special Representative for Children and Armed Conflict, Leila Zerrougui, visited Myanmar from 12 to 17 July 2015 to assess the impact of the conflict on children and engage in dialogue with the Government, in order to advance efforts to implement the joint action plan. She also met with several of the listed ethnic armed groups to discuss preventing and ending child recruitment and use.

33. While I have continued to advocate for the establishment of an office of the High Commissioner for Human Rights with a full mandate in Myanmar, only limited progress has been achieved. In addition, the level of cooperation of the Government with the Office of the United Nations High Commissioner for Human Rights (OHCHR) has also diminished, including through visa restrictions for OHCHR staff members, which has limited its capacity to provide full support to the Government in addressing human rights issues concerns. Nevertheless, OHCHR continues to engage the Government on policy dialogue, advocacy, technical cooperation and capacity-building in a number of areas.

E. Humanitarian situation

34. There are currently an estimated 540,700 people in need of humanitarian assistance as a consequence of unresolved conflict or intercommunal violence throughout Myanmar. Fighting in Kachin State and northern Shan State has displaced nearly 100,000 people since 2011. A continued lack of distinction between civilians and combatants, movement restrictions that prevent the timely access of civilians to safety, security and material assistance, forced recruitment and harassment and violence against the civilian population remain of particular concern. Reports suggest that the resurgence of conflict and resulting civilian displacements have also heightened the risk of sexual violence. Cross-border trafficking for the purpose of sexual exploitation, exacerbated by poverty and the breakdown of community structures, has also been reported. In March and April 2015, cross-line missions delivered assistance to over 12,000 internally displaced persons in non-government areas in Kachin. Authorization to proceed with the next series of cross-line convoys is pending. More sustained, predictable and flexible access by humanitarian organizations to all affected communities in Kachin and northern Shan States is essential to meet their needs adequately. The required humanitarian access can be achieved by easing the current travel authorization system and allowing international organizations to establish offices and full-time staff in areas beyond government control. Since the beginning of 2015, the United Nations has verified a total of 6 children killed and 13 injured in Kachin and northern Shan by mines and explosive devices or in crossfire.

35. Fighting in Kokang has displaced an estimated 60,000-70,000 people mostly to China, northern Shan State and the Wa Self-Administered Division. The Myanmar Red Cross Society has had access to Kokang and provided assistance to victims, although two of its convoys were attacked on 17 and 21 February 2015, causing the death of one volunteer and injuries to staff and civilians.

36. In Rakhine, over 400,000 people remain in need of humanitarian assistance, including about 130,000 Rohingya in protracted displacement from the intercommunal violence in 2012. Ongoing restrictions on the freedom of movement of the Rohingya, including internally displaced persons, continue to adversely impact their access to health, education and livelihoods. There have, however, been some much needed improvements affecting a small number of the internally displaced persons. Between March and June 2015, the Government gave approximately 10,000 people cash grants of $1,000, or building materials of that value, for the construction of individual temporary houses. Another 4,000 families received similar assistance following discussions and agreement with the Office of the United Nations High Commissioner for Refugees (UNHCR) and donors. Based

on the assessment of the United Nations, thus far the Government has consulted the families during the relocation process and the return of those people to their original plots has been voluntary. More returns and relocations are planned, pending release of additional funds from the central Government and financial assistance from donors. That is a positive move towards ending internal displacement and in line with what humanitarian agencies have been requesting. The United Nations will continue to advocate for a continuous emphasis on return to places of origin. At the same time, the Government has said that the houses are "temporary" and that any "permanent" housing remains contingent on the citizenship verification process. Although there has been some progress on returns for internally displaced persons who were living in longhouses, but who never left their villages of origin, there has not yet been progress on return for the majority of those internally displaced persons who were forced to leave their villages of origin in 2012 and who have been living in camps ever since.

37. The lack of progress on the broader issues of statelessness and institutionalized discrimination affecting the Rohingya continues to render them vulnerable. The problem is further compounded by the lack of overall development of Rakhine State, which remains the second poorest state and which adversely impacts both Buddhist and Muslim communities. While the economy of the country is growing at around 8 per cent per annum, the economy in Rakhine has stagnated. Although immediate development assistance should be scaled up, conditions for development are still very difficult, given the heightened nature of the intercommunal conflict and the deep sense of distrust and resentment of many Rakhine Buddhists toward international workers. The United Nations is engaged with the local authorities on a gradual scaling-up of development assistance and building the capacity of the local government to provide equitable public services in order to promote peaceful coexistence and social cohesion.

38. The desperate conditions in Rakhine have compelled many Rohingya to continue to risk their lives and make perilous sea journeys, using smugglers, to Thailand, Indonesia and Malaysia, often becoming prey to trafficking rings. More than 25,000 people, reportedly from Bangladesh and Myanmar, departed irregularly by sea in the first quarter of 2015, more than double the number for the same period in 2014. Many remain stranded at sea in desperate conditions. Based on survivor accounts obtained by UNHCR, many people may have died at sea during the period, as a result of starvation, dehydration or abuse by boat crews. As of June 2015, UNHCR and the International Organization for Migration reported that over 2,600 migrants were still stranded at sea. Some of the boats were reported to have been adrift for more than two months with limited food and water on board. In response to an international outcry and calls on the affected countries to prioritize saving lives, several boats have been rescued. On 22 May 2015, a boat with over 200 people in it was rescued off the coast of Rakhine State by the Myanmar Navy. Most of those victims were identified by the authorities as being from Bangladesh. A senior United Nations delegation visited the first two rescued vessels and migrants. On 29 May, the Myanmar Navy intercepted another boat with over 700 people on board drifting off the coast of Ayeyarwady region. The boat was towed to Maungdaw in northern Rakhine, where the survivors disembarked on 3 June. Among those rescued were several Rohingya women and children who had been on the boats for up to three months in deplorable conditions and experiencing abuse. Those rescued are receiving assistance from State authorities, United Nations

agencies and international non-governmental organizations. Some 195 Rohingya from Rakhine State have reportedly returned to their villages without repercussions, while another 187 men and boys, verified as Bangladeshi, were repatriated. The process of verification and repatriation or return of the remaining individuals continues.

39. At the end of July, cyclonic storm Komen and heavy monsoon rains caused major flooding in Myanmar, leading to the death of at least 88 persons and affecting more than 330,000 people at the time of writing. The United Nations and humanitarian partners have stepped up their support for national relief efforts, providing food assistance, shelter, water and sanitation, and access to emergency health care. Damage to crops and arable land is likely to disrupt the planting season and pose a risk to long-term food security. The United Nations Central Emergency Response Fund released around $9 million to support some 160,000 people in Rakhine State, Chin State, Sagaing Region and Magway Region with life-saving assistance.

F. Communal situation

40. The climate of distrust among the communities in Rakhine and elsewhere remains worrisome. In Rakhine, the separation of communities in the aftermath of the intercommunal violence in 2012 may have averted a further eruption of violence, but it has also entrenched already existing fears and animosities. Elsewhere in the country, the rise of anti-Muslim sentiment and antagonism towards international organizations, including the United Nations, has been promoted by extremist groups, such as the 969 Movement and MaBaTha, and has become a dangerous rallying point for them. At the same time, the ethnic tensions in Rakhine State have also been brought into the broader geopolitics of Buddhism in Myanmar. Social media outlets and populist rallies have been used to spread discriminatory and negative stereotypes, stoke fear and incite religious and racial hatred and violence. In Yangon on 27 May, hundreds of monks and protesters denounced the international community for "bullying" their country into accepting migrants cast adrift at sea. Those groups have also begun increasingly to assert their influence over national policy. In April, radical Buddhists pressured the Government into announcing it would rescind white cards. Apart from spearheading the drafting of the controversial "race and religion protection bills" targeting religious minorities, the MaBaTha also mounted a campaign of public demonstrations to pressurize Parliament to adopt them. On 2 June 2015, a court sentenced writer and official of the National League for Democracy, Htin Lin Oo, to two years' imprisonment with hard labour after a group called the Patriotic Buddhist Monks Union denounced a speech he made in October 2014 criticizing militant Buddhism. In early July, under pressure from the aggressive "Save the Shwedagon" campaign led by MaBaTha, the Government backed down from plans to build a series of new high-rise developments near the revered Shwedagon Pagoda. Those plans had already been finalized with the developers.

41. Notwithstanding the instances above, there have also been some Government-led, as well as grassroots and civil society efforts at promoting social cohesion and intercommunal harmony. They include the "selfie" campaigns by youth in Yangon encouraging the posting of photographs on social media from friends of diverse religious and ethnic backgrounds, transcending differences, promoting tolerance and

highlighting the strength of diversity in Myanmar society; the video series "Portraits of diversity" that featured ordinary individuals from different occupations across diverse religious backgrounds reaching out to others in the community, helping to resolve everyday issues of childcare, education, social service and so forth; and the *panzagar* or "flower speech" community-level campaign to end online and offline hate speech. Equally notable, in that context, are the initiatives undertaken by the recently established Centre for Diversity and National Harmony, involving interfaith and intercommunal dialogue, including in Rakhine. The United Nations, through my Special Adviser and the Peacebuilding Fund, has supported the Centre in its efforts.

III. Observations

42. Myanmar has come a long way in its reform process. The changes sweeping the country are unprecedented and appear to be shaking society to its core. Not all of them have been viewed as in keeping with the expectations and legitimate aspirations of the people at large. Indeed, serious abuses of human rights continue to occur and the humanitarian and development situation, particularly in Rakhine and ethnic areas, warrant dedicated attention and support. However, the political reforms are gradually taking root and fundamentally transforming the country. The upcoming elections will be a critical juncture in that process. If conducted in a credible, transparent and inclusive way, the elections will help to build confidence in the reform process and demonstrate the commitment of the Government to democracy. The period immediately before and after the elections promises to be one of change and uncertainty. It is my hope that all political leaders in Myanmar will put aside narrow agendas and support the consolidation of democracy in the country. The behaviour of the Tatmadaw will also be critical to the process. My Special Adviser has continued to engage with the Tatmadaw and encourage its constructive role on a range of issues, including political reform and national reconciliation efforts, as well as on the de-escalation of hostilities in the conflict areas. The United Nations remains ready to extend its continued support to Myanmar in these crucial times.

43. As the country gears up for elections, there are deeply troubling signs of communal and religious differences being exacerbated and ultranationalistic and chauvinistic sentiments building up within the country, some even directed toward the United Nations and the international community. As I have said previously, a unified message from the country's political leaders against incitement and hate speech is urgently needed. Over the longer term, appropriate legal structures and policy guidelines will also be needed, alongside the necessary developmental efforts, education and awareness-raising measures, to promote equality, non-discrimination and coexistence. In addition, in Rakhine State I would call on the authorities to undertake determined and purposive action to alleviate discriminatory practices against, and the humanitarian conditions of, the Rohingya in order to assure for them a modicum of dignity and basic human rights.

44. I note with appreciation the progress made by the Government and the ethnic armed groups during the past 18 months in achieving national reconciliation. Despite ebbs and flows in the process, the commitment of both sides to the primacy of dialogue has been exemplary. The last 18 months of negotiation have shown that both sides are willing to set aside mistrust and negotiate their way out of occasional deadlocks. It is my hope that all sides will continue to build on the achievements of

that process and move toward further trust and confidence-building. Reaching sustainable peace in Myanmar will require a long-term vision, patience and perseverance. The United Nations and my Special Adviser remain ready to extend appropriate support to all relevant sides.

45. In that context, the support extended to my Special Adviser in his efforts to reach out to all relevant stakeholders in Myanmar has been invaluable. While reaffirming the need for continued constructive engagement between the United Nations and Myanmar through a coherent and coordinated country programme, I would like once again to invite Member States to assess the feasibility of the continuation of the good offices mandate, including a gradual scaling-down of the mandate of my Special Adviser by the end of 2016, and to consider other regular modes of engagement with Myanmar. If conducted in a credible and transparent manner, the elections later in 2015 will mark a new and decisive chapter in the transition to democracy. Meanwhile, all relevant United Nations entities, including the country team, the various funds and programmes and the Secretariat, will continue to support the country's efforts towards democratization and the fulfilment of human rights and development for all. In that context, I wish to express my appreciation of the diligent efforts, patience and perseverance shown by the country team under the leadership of the Resident Coordinator. I also wish to commend the independent and committed efforts of the Special Rapporteur on Myanmar, Yanghee Lee, whose vigilant observation of the human rights situation has assisted and will continue to assist the Government in fulfilling its human rights obligations. Finally, I wish to express my gratitude for the efforts of my Special Adviser, Vijay Nambiar, whose sustained support to the peace process has helped maintain momentum in that area. While engaging with the authorities on the issues of reform and democratization, he has also continuously drawn their attention to the need for substantive measures to address and prevent further communal polarization in Rakhine, to secure improved economic and humanitarian conditions for the vulnerable and to ensure greater inclusiveness, harmony and trust among the communities there.